

**AMENDMENTS TO THE DRAWINGS**

FIGs. 6-8 are added to clarify the process of forming and patterning the first, second and third layers as is described in the specification in the paragraph starting on line 30 of page 4. This paragraph has been amended to add the appropriate reference numerals.

The additional sheets are included in the Appendix following page 10 of this paper.

## REMARKS

Claims 1-9, 11-13, 21, 22, 26 and 27 are pending in the application.

Claims 1-9, 11-13, 21, 22, 26 and 27 are rejected.

Claims 1, 2, 4-9, 12-13, 21-22 and 26-27 are rejected under 35 U.S.C. 103(a).

Claims 3 and 11 are rejected under 35 U.S.C. 103(a).

Claims 1 and 5 are amended. No new matter is added.

Claims 1-9, 11-13, 21, 22, 26 and 27 remain in the case for consideration.

Applicant requests reconsideration and allowance of the claims in light of the above amendments and following remarks.

*Claim Rejections – 35 U.S.C. § 103*

Claims 1, 2, 4-9, 12-13, 21-22 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art (APA) in view of Urano JP Patent No. 11077507.

With respect to independent claim 1, this claim is amended to recite that forming the second contact holes includes performing a dry etching using an etchant having a low etching selectivity between the etching stopper and the capping layer, as previously recited in claim 5 with respect to both the second and third contact holes.

The Examiner cites on page 4 of the Office Action that the APA discloses forming the second and third contact holes by performing a dry etching method using an etchant having a low etching selectivity between the etching stopper and the capping layer. The proper etching selectivity is necessary to form the capping layers to have a uniform thickness.

Nowhere, however, in the APA or in Urano is any such method disclosed. In fact, in APA, because there is no etching stopper formed on the capping layer, APA cannot be said to teach a dry etching method using an etchant having a low etching selectivity between the etching stopper and the capping layer. Also, in Urano, after the nitride film 8 is exposed, it is merely stated that the nitride film 8 is removed before ashing. There is no teaching in Urano regarding using an etchant having a low etching selectivity between the etching stopper and the capping layer as in the claimed invention. Please note that none of the cited references including Urano teach the feature (of the etching stopper and the capping layer) shown in FIG. 5A or in FIG. 3 indicated by reference number 80 of the present application. Therefore, Urano also does not teach or suggest, "using an etchant having a low etching selectivity between the etching stopper and the capping layer." For these reasons, APA and Urano,

either alone or in combination, does not teach or suggest the process claimed in amended independent claim 1.

Claim 1 also recites that the first and second layers are formed by first patterning the third overlying layer and then using the patterned third layer to pattern the first and second layers. New FIGs. 6-8 are added to clarify this process with the drawings being supported by the specification at page 4 in the paragraph starting on line 30.

As noted by the Examiner on page 3 of the Office Action, the APA does not disclose this process of forming the first and second layers using the patterned third layer. Urano also does not disclose this process because Urano does not pattern the first and second layers. Rather, Urano only discloses etching the insulation film 3 and the nitride film 8. The Al wiring 1 and the antireflection film 2 are left unpatterned in Urano.

Therefore the combination of the APA with Urano fails to present a *prima facie* case of obviousness with respect to amended independent claim 1 because the combination fails to disclose each and every element of claim 1. Thus, amended claim 1 is believed to be allowable over the combination of the APA and Urano and allowance is respectfully requested.

Claims 2, 4-9, 12-13 and 21-22 all depend from amended independent claim 1 and for at least the same reasons given for claim 1, these claims are believed to be allowable and allowance is respectfully requested.

With respect to independent claim 26, the claim recites forming the second contact holes by using a second etchant having a low etching selectivity between the etching stopper and the capping layer. Claim 26 also recites that the first and second layers are formed by patterning the third layer and then using the patterned third layer to pattern the first and second layers. FIGs. 6-8 are added to clarify the process of patterning the first and second layers and these figures are supported within the specification in the paragraph starting at line 30 of page 4.

As described above, the APA does not disclose forming the second contact holes using a second etchant having a lower etching selectivity between the etching stopper and the capping layer. Urano also does not disclose forming the second contact holes in such a manner.

Further, as discussed above, neither the APA nor Urano disclose patterning the first and second layers using the patterned third layer to pattern these layers.

Therefore, the combination of the APA and Urano fails to present a *prima facie* case of obviousness with respect to independent claim 26. Thus, claim 26 is believed to be allowable over the combination of the APA and Urano and allowance is respectfully requested.

Claim 27 depends from claim 26, and for at least the same reasons given for claim 26, this claim is believed to be allowable and allowance is respectfully requested.

Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA and Urano in view of Bost, et al., U.S. Patent No. 5,231,053.

Claims 3 and 11 depend from amended independent claim 1 and, therefore, necessarily include all of the limitations of claim 1. The addition of Bost fails to cure the deficiencies of the APA and Urano with respect to claim 1. Thus, for at least the reasons given for claim 1, claims 3 and 11 are believed to be allowable over the combination of the APA, Urano and Bost and allowance is respectfully requested.

For the foregoing reasons, reconsideration and allowance of claims 1-9, 11-13, 21, 22, 26 and 27 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

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